

## § 712.20

(e) If the action is revocation, the Manager must provide the individual a copy of the HRP management official's report. The Manager may withhold such a report, or portions thereof, to the extent that he or she determines that the report, or portions thereof, may be exempt from access by the employee under the Privacy Act or the Freedom of Information Act.

(f) If an individual is directed by the Manager to take specified actions to resolve HRP concerns, he or she must be reevaluated by the HRP management official and HRP certifying official after those actions have been completed. After considering the HRP management and HRP certifying officials' report and recommendation, the Manager must direct either:

(1) Reinstatement of the individual; or

(2) Revocation of the individual's HRP certification.

(g) *Notification of Manager's initial decision.* The Manager must send by certified mail (return receipt requested) a written decision, including rationale, to the HRP-certified individual whose certification is revoked. The Manager's decision must be accompanied by notification to the individual, in writing, of the procedures pertaining to reconsideration or a hearing on the Manager's decision.

## § 712.20 Request for reconsideration or certification review hearing.

(a) An HRP-certified individual who receives notification of the Manager's decision to revoke his or her HRP certification may choose one of the following options:

(1) Take no action;

(2) Submit a written request to the Manager for reconsideration of the decision to revoke certification. The request must include the individual's response to the information that gave rise to the concern. The request must be sent by certified mail to the Manager within 20 working days after the individual received notice of the Manager's decision; or

(3) Submit a written request to the Manager for a certification review hearing. The request for a hearing must be sent by certified mail to the Manager within 20 working days after

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the individual receives notice of the Manager's decision.

(b) If an individual requests reconsideration by the Manager but not a certification review hearing, the Manager must, within 20 working days after receipt of the individual's request, send by certified mail (return receipt requested) a final decision to the individual. This final decision about certification is based on the individual's response and other relevant information available to the Manager.

(c) If an individual requests a certification review hearing, the Manager must forward the request to the Office of Hearings and Appeals.

## § 712.21 Office of Hearings and Appeals.

(a) The certification review hearing is conducted by the Office of Hearings and Appeals.

(b) The hearing officer must have a DOE "Q" access authorization when hearing cases involving HRP duties.

(c) An individual who requests a certification review hearing has the right to appear personally before the hearing officer; to present evidence in his or her own behalf, through witnesses or by documents, or by both; and to be accompanied and represented at the hearing by counsel or any other person of the individual's choosing and at the individual's own expense.

(d) In conducting the proceedings, the hearing officer must:

(1) Receive all relevant and material information relating to the individual's fitness for HRP duties through witnesses or documentation;

(2) Ensure that the individual is permitted to offer information in his or her behalf; to call, examine, and cross-examine witnesses and other persons who have made written or oral statements, and to present and examine documentary evidence;

(3) Require the testimony of the individual and all witnesses be given under oath or affirmation; and

(4) Ensure that a transcript of the certification review proceedings is made.